

COURT MINUTES OF FAIRNESS HEARING

IN RE ADVOCATE AURORA HEALTH
PIXEL LITIGATION
(consolidated case)

CASE NO. 22-CV-1253-JPS

HON. J. P. STADTMUELLER PRESIDING

DATE: March 8, 2024

TIME SCHEDULED: 8:30 a.m.

COURT DEPUTY/CLERK: Caitlin Willenbrink

TIME CALLED: 8:29 a.m.

COURT REPORTER: Sue Armbruster

TIME FINISHED: 9:06 a.m.

PLAINTIFFS BY: Gary Klinger (co-lead counsel), Terence Coates (co-lead counsel), Dylan Gould, Mary Flanner, David Lietz

DEFENDANTS BY: Matthew Splitek, Edward McNicholas

OBJECTOR THEODORE WYNNYCHENKO BY: Frank Bednarz

Notes:

- 8:29 Case called; appearances; parties and objector Theodore Wynnichenko appear through counsel; Court notes purpose of today's hearing and that it has reviewed the proposed settlement and the parties' submissions; inquires about one portion of submissions, Fenwick affidavit, ECF No. 47-3
- 8:34 Attorney Coates comments; provides updated claim rate and states that settlement administrator has agreed to a cap on administration costs; comments further
- 8:37 Court addresses objections; overrules Goukas objection, ECF No. 45-1; overrules Boryu, Gleason, and Dorner objections, ECF Nos. 40, 45-2, and 45-3; addresses Wynnichenko objection, ECF No. 42; notes that Plaintiffs have agreed to a significant reduction in their fee request but that Court may require additional submissions related to fee award
- 8:42 Attorney Bednarz responds to Court's comments
- 8:43 Attorney Coates responds, states that Plaintiffs are generally okay with Objector's proposed order submitted Wednesday; comments further on parties' agreement to consult on prospective cy pres distribution
- 8:44 Attorney Bednarz comments further with respect to attorneys' fees; suggests 2.0 lodestar multiplier
- 8:45 Attorney Coates responds; states that this will effectively be the fee with lodestar multiplier when claims administration concludes
- 8:46 Court notes its independent obligation to consider reasonableness of fees; comments further, suggests sliding-scale fee structure

8:53 Attorney Bednarz clarifies that Objector Wynnnychenko has not withdrawn his objection; states that Objector would be interested in further billing records from Plaintiffs' counsel

8:54 Attorney Coates states that Plaintiffs' counsel would request 21 days to compile billing records

8:55 Court agrees

8:55 Attorney Bednarz responds

8:56 Attorney Klinger comments; states his understanding, based on Attorney Bednarz's prior statements on the record and prior to the hearing, that Wynnnychenko had agreed that attorneys' fee request was reasonable after the voluntary reduction and is unclear why Wynnnychenko is now requesting that time records be submitted; states that Plaintiffs' counsel will submit billing records as required, including in camera records as appropriate

8:57 Attorney Bednarz responds; agrees redactions may be applied for some entries

8:58 Court raises questions expressed earlier about relative risk of case, application of a sliding-scale fee structure, and possible redundancy of hours

9:00 Court states that first four objections are all overruled, no decision has been reached on matter of attorneys' fees and Court will await further written submissions thereon

9:01 Attorney Coates comments on matters of redundancy, directs Court to joint declaration, ECF No. 47-2

9:02 Court states it will review submissions

9:02 Attorney Coates makes statements related to effectiveness of notice and number of claims as well as relative risk of case

9:05 Attorney Leitz responds to Court's earlier comments about ascertainment of class

9:06 Court states it will await Plaintiffs' further submissions, does not anticipate a further hearing in the matter unless written submissions necessitate one; stands in recess